

For:

Introduction and referral to Planning Commission: 2/7/22

Planning Commission Recommendation: _____

Public Hearing: _____

Adoption: _____

THE TOWN OF MOUNT AIRY, MARYLAND

ORDINANCE NO. 2022-5

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF MOUNT AIRY, PART II ENTITLED “GENERAL LEGISLATION”, CHAPTER 112 ENTITLED “ZONING”, ARTICLE V ENTITLED “PROVISIONS GOVERNING COMMERCIAL DISTRICTS”, SECTION 112-38 ENTITLED “NP NEIGHBORHOOD PROFESSIONAL DISTRICT”

WHEREAS, the Town’s Zoning Chapter does not currently expressly impose a requirement that Community Commercial District zoning be assigned to property within the Town only where adjacent to a more intensive zone; and

WHEREAS, the Town’s Zoning Chapter does impose that requirement on other commercial districts such as the Limited Commercial Zone pursuant to Section 112-37A(2) and the Neighborhood Professional (NP) Zone pursuant to Section 112-38A(3); and

WHEREAS, it is inconsistent to apply a buffer requirement to a less intensive zone as compared to the CC Zone, and yet not apply the same requirement to a more intensive commercial zone such as the CC Zone; and

WHEREAS, as of the date of this ordinance, the Town has begun the process of formulating the next Comprehensive Plan, making this ordinance appropriate and timely to adopt; and

WHEREAS, pursuant to Md. Land Use Code Ann., Section 4-204(b) and the Town Code, Section 112-67, this ordinance was referred to the Town Planning Commission for review and recommendation, and on _____, 2022, the Planning Commission recommended _____; and

WHEREAS, pursuant to Md. Land Use Code Ann., Section 4-203(b) and the Town Code, Section 112-66A, after due publication of notice, the Town Council held a public hearing on this ordinance on _____, 2022; and

WHEREAS; the Town Council has determined it to be in the best interest of the Town and its residents for the Town Council to exercise its zoning authority and law making powers for the purpose of imposing a buffer requirement on all future applications of CC Zoning on the properties in the Town, though without waiving the Town’s right to rezone some or all of such

properties, or neighboring properties, as a part of a future comprehensive rezoning consistent with any future Comprehensive Plan adopted by the Town .

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:

Section 1. That Part II, Chapter 112, Article V, Section 112-38, Subsection A of the Code of the Town of Mount Airy be and is hereby repealed and reenacted with the following amendments:

§ 112-38. NP Neighborhood Professional District

A. Purpose.

- (1) The NP District is intended to allow the redevelopment of existing homes and structures for professional offices while protecting the residential uses adjoining the district.
- (2) The location of the Neighborhood Professional Districts should provide for adaptive reuse of existing homes and structures into offices and is intended to encourage use of existing structures, but these requirements apply to any construction within the District.
- (3) The NP Zone is intended to provide a less intensive commercial zone than the LC District and must only be assigned where adjacent to a more intensive commercial zone such as the Limited Commercial (LC), Community Commercial (CC), Mixed Use Development, Office Park Employment, or any other more intense commercial or industrial zone.
- (4) Establishment of any of the specific uses under this District shall not be considered a basis for change in any subsequent rezoning petition to a more intensive zoning classification.
- (5) All plans for development in this District are subject to site plan approval subject, however, to the exception contained in Subsection F(2) below.

B. Hours of Operation.

- (1) Monday thru Friday. Hours of Operation shall be limited to 7:00 a.m. to 9:00 p.m., at which time lights, other than safety and security lighting, shall not be provided. All operations at the location shall cease by 10:00 p.m.
- (2) Saturday. Hours of operation shall be limited to 8:00 am to 8:00 PM., at which time lights, other than safety and security lighting, shall be not provided. All operations at the location shall cease by 9:00 p.m.

(3) Sunday. Hours of operation shall be limited to 9:00 am to 6:00 PM., at which time lights, other than safety and security lighting, shall be not provided. All operations at the location shall cease by 7:00 p.m.

(4) Hours of Operation for a special exception shall be determined at the time of application for the exception. If no changes are applied for, then the hours set fourth in this section shall apply to that special exception.

BC Limitation of assignment of NP District. The Neighborhood Professional Zone is intended as a transitional zone between residential uses and approved commercial uses. It must only be assigned where it will be adjacent to a more intensive commercial zone such as Limited Commercial or Community Commercial, Mixed Use Development, Office Park Employment or any other more intense commercial zone.

CD Uses permitted in the NP District. No existing buildings or structures may be used or occupied except in substantial conformity with the below examples:

- (1) Finance, insurance and real estate services without drive-throughs.
- (2) Professional services, including medical, dental, legal and engineering.
- (3) Residential uses related to professional office uses, including resident professional offices.
- ~~(4) Detached accessory buildings with not over 500 square feet of ground floor building footprint area.~~
- ~~(5) Public parks and playgrounds.~~
- ~~(5) Residential uses in accord with RE or R 2 zoning, depending on adjacent zoning.~~

DE. Special exceptions in the NP District. The Board of Appeals may authorize the following principal uses as special exceptions in accordance with the following principal uses as special exceptions in accordance with the provisions of Article VIII, § 112-62.

- (1) Private and commercial schools: dance, business, trade [§ 112-62F(11)].
- (2) Nursery schools and child-care centers [§ 112-62F(10)].
- (3) Churches, schools, libraries and community centers [§ 112-62F(19)].
- (4) Convalescent, nursing homes or assisted living facilities [§ 112-62F(4)].
- (5) Fire and rescue stations. [§ 112-62F(20)].

- (6) Residential uses ~~more dense than RE or R-2 zoning~~ with density that is comparable to RE or R-2 zoning.

~~EF.~~ Prohibited uses. The following uses are prohibited in the NP District:

- (1) Principal structures with a footprint floor area of greater than 2,000 square feet, except as permitted under § 112-38F.
- (2) Any twenty-four-hour operations unless, pursuant to Subsection B(4) above, approved by the Board of Appeals for a special exception use listed in Subsection E above.
- (3) Any retail establishment or repair service.
- (4) Drive -in or drive-through establishment.
- (5) Public utility buildings.
- (6) Clubs and fraternal organizations.
- ~~=~~ (7) Detached accessory buildings with not over 500 square feet of ground floor building footprint area.

~~FG.~~ Construction requirements. The NP District is intended to encourage use of existing structures, but these requirements apply to any construction within the District. All development plans for new construction ~~or those additions~~ seeking to enlarge the ground floor building footprint of existing construction are subject to site plan approval. Construction requirements include:

- (1) Principal structure. Although the NP District encourages use and adaptation of existing structures, new principal structures may be built to replace those which are torn down or removed as long as the new principal structure is built with a footprint that does not exceed the size of that of the structure it replaces, except new principal structures constructed on or after July 26, 2020, on lots with principal structures that have been vacant for at least three continuous years and are torn down or removed, but subject to the limitations set forth in Subsection F(4) below.
- (2) Additions to existing structures. An addition of up to 25% of the existing ground floor building footprint will be permitted to an existing structure that remains on the property as the principal structure. Additions which result in increased height of the existing structure shall be permitted subject to the requirements of § 112-38F(5). Notwithstanding the general requirement for site plan approval, additions to accessory structures shall not require site plan approval, provided that the addition to such structure will not:

- (a) Generate an increase in water consumption of more than 10% beyond the existing water consumption for the lot upon which such structure is located as certified by a licensed professional engineer; and
 - (b) Generate more than 25 additional average daily trips to the subject site as determined by a traffic consultant of the town's choosing.
- (3) Waiver of setback and development requirements. In order to allow an addition and/or continued reasonable use of an existing building or structure, setback ~~may~~ shall only be waived by the Board of Appeals, but only to the extent necessary to permit use of the property and structure within the NP District.
- (4) Size limitation for new principal structures constructed on or after July 26, 2020, on lots that as of July 26, 2020, are without principal structures, or on lots with improvements that have been vacant for at least three continuous years and are subsequently torn down or removed. New principal structures constructed on or after July 26, 2020, on new lots that as of July 26, 2020, are without existing principal structures, or on lots with improvements that have been vacant for at least three continuous years and are torn down or removed, shall be permitted up to a footprint of 2,500 square feet, so long as:
- (a) The new principal structure meets setback requirements [subject to the waiver provisions set forth in Subsection F(3) above], parking standards, and all other development requirements applicable to the proposed use; and
 - (b) The proposed development complies with any reasonable condition to granting the variation imposed by the Planning Commission, such as requirements for screening.
- (5) Height restriction. No building or structure shall exceed the height of the existing principal structure or, for vacant lots, 20 feet in height, not including the roof structure. No building or structure shall contain more than two stories, not including the attic.
- (6) Lighting shall not reflect or spill over upon adjoining or nearby residential property or on roadways; all lighting shall be equipped with full cutoff, fully shielded fixtures, and pole heights shall not exceed 15 feet at the perimeters. ~~High-density sodium~~ LED lighting having color rating of 3000k or less shall be used for all outdoor lighting to meet Town standards.
- (7) Buffers protecting nearby residential areas shall be required and shall consist of fencing and/or natural barriers such as vegetation and trees per the site plan approval of sufficient height.
- (8) All other requirements for commercial development shall apply unless waived under Subsection ~~FG~~ EG(3) above.

Section 2. This ordinance shall apply prospectively to properties that as of the effective date below have not yet been assigned Neighborhood Professional (NP) District zoning, though without waiving the Town's right to rezone some or all of such properties, or neighboring properties, as a part of a future comprehensive rezoning consistent with any future Comprehensive Plan adopted by the Town.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that
this Ordinance shall take effect on the ____ day of _____, 2022.
Introduced this ____ day of _____, 2022.
Re-introduced this ____ day of _____, 2022.
Enacted this ____ day of _____, 2022 by a vote of _____ in favor and _____ opposed.

ATTEST:

Pamela Reed, Secretary

Jason Poirier, President of the Town Council

Approved this ____ day of _____, 2022.

ATTEST:

Pamela Reed, Secretary

Larry Hushour, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This ____ day of _____, 2022.

Thomas V. McCarron, Town Attorney

B2697607